



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 153-00

21 April 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corp on 15 April 1982 for three years at age 19. The record reflects that you were advanced to PFC (E-2) and served for 11 months without incident. However, during the 13 month period from March 1983 to April 1984 you received three nonjudicial punishments (NJP) for sleeping on post as a sentinel, a two day period of unauthorized absence, and two instances of using marijuana. After your second NJP, you were counseled regarding the use of illegal drugs and your conformance to the standards of conduct. You were warned that failure to overcome your shortcomings could result in separation under other than honorable conditions.

On 30 April 1984 you were notified that discharge under other than honorable conditions was being recommended by reason of misconduct due to a pattern of misconduct as evidenced by your

frequent involvement with military authority and failure to accept rehabilitation. You were advised of your procedural rights and elected to be represented by counsel and present your case to an administrative Board (ADB). However, on 6 June 1984 you decided to waive an ADB and submitted a statement requesting that a general discharge be considered. A staff judge advocate reviewed the discharge proceedings and found them to be sufficient in law and fact. On 26 June 1984 the discharge authority directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were so discharged on 2 July 1984.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, low test scores, and the fact that it has nearly 16 years since you were discharged. The Board noted your contentions to the effect that there was no pattern of misconduct; you suffer from the mental illness of alcohol addiction, a disease that ran rampant in your family; the military should have offered you treatment; and Congress has passed a law that alcoholism is a disability. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs, two of which were for use of marijuana. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. While there is evidence of drug use, there is no evidence in the record of alcohol abuse or that you were diagnosed as being dependent on alcohol or drugs. Although regulations require treatment of individuals who are dependent, your record indicates that you apparently refused rehabilitation assistance. Despite your contentions to the contrary, alcohol/drug addiction is not a mental illness or a disability under the law for which a medical discharge is required. Alcohol and drug abuse do not excuse misconduct and three NJPs during a 13 month period prior to your discharge was conduct prejudicial to good order and discipline and clearly constituted a pattern of misconduct as described by Marine Corps regulations. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director